

WILLIAMSBURG

BOARD OF ZONING APPEALS

MINUTES

June 1, 2004

The regular meeting of the Williamsburg Board of Zoning Appeals was held on Tuesday, June 1, 2004 at 3:00 p.m. in the Williamsburg Municipal Building, 401 Lafayette Street.

ATTENDANCE

Present were Board members Carr, Kafes, Knudson, White and Chohany. Staff members present were Zoning Administrator Murphy and Secretary Scott.

CALL TO ORDER and MINUTES

Chairman Knudson called the meeting to order. The minutes of the April 6, 2004 meeting were approved as submitted.

PUBLIC HEARINGS

BZA #04-003: Request of Joseph C & Diana C Oebbecke for a variance from Section 21-481 of the Zoning Ordinance to enclose a portion of an existing deck into a Florida room. A 25 foot rear yard setback is required for the Florida room and the existing deck is located 17.2 feet from the rear property line requiring a variance of 7.8 feet. The property is located at 104 Cove Point Lane, Williamsburg Tax Map Number 555-(04)-00-076 and is zoned Planned Unit Development (PUD). Approved.

Chairman Knudson introduced the request for a variance and noted the following BZA members visited the site:

Kafes, Carr, Knudson, Chohany

Mrs. White did not visit the site and will abstain from discussion and voting on the case.

Mrs. Knudson then asked for comments from the applicant.

Mr. Oebbecke stated that when he and his family moved into their home they didn't have the opportunity to get a sunroom, but would like to do so now by enclosing a 12' x 12' portion of their existing deck.

Chairman Knudson opened the public hearing.

There being no comments the public hearing was closed.

Mr. Carr moved that the variance be granted. Mr. Kafes seconded the motion and stated approval is warranted by (1) the odd shape of the lot, based on

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Zoning Ordinance Section 21-97(b)1. "When a property owner can show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the chapter, or where, by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property immediately adjacent thereto, the strict application of the terms of the applicable provisions of this chapter would effectively prohibit or unreasonably restrict the utilization of the property, or where the board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter", and (2) that a hardship would result if not approved because it is common to have an enclosed area, Section 21-97(b)2. Mr. Kafes also stated that his motion includes finding:

- a. That the strict application of this chapter would produce undue hardship.
- b. That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance."

Board member discussion:

Mr. Chohany stated that he has had some challenges with this request because a good many decks have been added in this subdivision. He noted unenclosed decks can encroach 12 feet into a required rear yard setback, but when enclosed it needs to meet the rear yard setback. Many more requests may come before the Board; this could be a precedent-setting issue of great magnitude, however no one seems to object.

Mr. Kafes said he was also concerned about the precedent-setting issue, but each case is different with different factual situations and each should be reviewed on its own merit.

Recorded vote on the motion:

Aye: Kafes, Carr, Knudson, Chohany
No: None
Abstain: White
Absent: None

OLD BUSINESS
Resolutions

In response to City Attorney Phillips' request for more complete records of the meetings, the consensus of the Board was to use resolutions for more complete motions. Mr. Carr thanked Mrs. White for obtaining sample resolutions used by York County. Mrs. White stated that in discussion with the York County attorney,

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she found that they don't have minutes; instead they rely on the use of the resolutions. Mrs. White said the use of resolutions would be a good way to beef-up our minutes, and if there is litigation regarding a case, it is easy to pull out a resolution rather than the full minutes.

Time of Meetings

The Board determined that it would help their scheduling if future meetings begin at 4:00 rather than 3:00 p.m. Mr. Kafes moved that beginning January 2005, BZA meetings be changed to begin at 4:00 instead of 3:00. Mr. Chohany seconded the motion.

Recorded vote on the motion:

Aye: Kafes, Carr, Knudson, Chohany, White
No: None
Absent: None

NEW BUSINESS

Board Member Chohany's Last Meeting

Chairman Knudson wished Board member Michael Chohany the best in his newly-elected position on the Williamsburg City Council. She thanked him for his work on the Board and said he would be missed. Mr. Chohany responded that it has been a pleasure working with the Board.

Thorpe Case Update

Zoning Administrator Murphy informed the Board that Mr. Thorpe's attorney had informed her that he would be filing a takings action against the City for the 119 Matoaka Court property, BZA #03-012.

There being no further business the meeting adjourned at 3:20 p.m.

Respectfully submitted,

Judith N. Knudson, Chairman
Board of Zoning Appeals